

1887-029 Chancery Causes: Nollie McCauley by bc vs. Caryann McCauley bc
Lee Co.

Woodward, Martin

CA-Estate Dispute

T-Property

To the Hon. H. L. K. Morrison Judge of the Circuit
Court of Lee County Virginia.

Humbly complaining your oratrix Mollie Mc-
Cauley, an infant, eighteen years of age, who sues
by Wm Woodward her father and next friend,
would respectfully shew unto your honor, that
her late husband Martin W McCauley, who departed
this life on the day of May 1887, was, during his
lifetime, and during the coverture, seized and pos-
sessed of two thirds of two certain tracts or parcels
of land lying and being in said county, about two
and a half miles west of Jonesville, containing
75 acres and 22 acres respectively, it being the same
land conveyed by David A Martin & wife, on the
30th day March 1880, to the said Martin W McCauley,
Aryann McCauley & Boyd D McCauley by deed of
record in the clerk's office of the county Court of said
county, a copy of which is herewith filed as part hereof mar-
ked "A", and afterwards, to wit. - on the 16th day of
February 1885, the said Boyd D McCauley conveyed
by deed to the said Martin W McCauley his undivided
interest in said lands, the said Martin W. thereby
becoming the owner of two thirds of said tracts of
land. A copy of this last mentioned deed is herewith
filed, as part hereof, marked "B".

Now your oratrix will further shew unto your honor
that during the month of February 1887, and while
her said husband was in poor health, he was

threatened with a suit by a woman of lewd
character, in regard to an alleged marriage contract
which she claimed had existed between them prior
to the marriage of your oratrix with the said Martin
W McCauley, and her said husband being desirous
of placing his property beyond the reach of one whom
he considered a prospective unscrupulous litigant,
with an unjust claim, and ^{intending to} ~~resting~~ the same in your
oratrix, determined to convey his undivided interest
in said lands to your oratrix, but was advised by
his grand father, the said David A Martin, that a
conveyance direct from him to your oratrix would
not be legal, or would not stand, and that the better
course would be for her said husband to convey
his said interest to him and he to your oratrix, and
your oratrix's said husband, under said advise,
did agree to so convey his said interest in said lands,
and on the 10th day of February 1887, did execute, to the
said David A Martin, a deed for all his undivided
^{interest} in said lands, with the distinct understanding and
agreement between them, that he the said David A
Martin should convey said interest in said lands to
your oratrix. And pursuant to said agreement, and
during the lifetime of the said Martin W McCauley,
the said David A Martin and your oratrix went to
the town of Jonesville to have the said conveyance
prepared and executed, but did not as Mr Gibson
the clerk was not in his office. The making of said

A copy of said deed is herewith
filed, marked "B"

courtesy and was postponed from time to time, although the said David A Martin after promised to attend to the matter, until about the 20th day of April 1887, when, your oratrix's said husband was within a few days of his death, with that fatal disease, consumption, and when he was not only feeble in body but without sufficient mind to transact any important business, his mother, the said Margaret McQuay, besought him to have his ^{said} interest in said lands conveyed to her; and to give the matter the semblance of justice upon her part, brought up against her said son an account, which your oratrix alleges was fraudulent and unjust and was so considered by her said husband, and, by taking advantage of his extreme feebleness of mind and body, procured from him his assent thereto and the request that your oratrix should join with him in the deed he had executed to the said David A Martin, and under the undue influences thus brought to bear upon him by his said mother, and in view of his extreme condition, and your oratrix being anxious to make his few remaining days as peaceful and quiet as possible, that he might have the better opportunity to prepare for the important change so near at hand, your oratrix did sign and acknowledge said deed. But the same was done against her will, and, as she believes, against the will of her said husband, so far as he was capable, at the time, of exercising any will upon the subject.

The said deed of February 10th 1887, recites & as the Consideration paid by said David A Martin, but your oratrix alleges that nothing was paid, and that nothing was to be paid, the Consideration being as before stated, that the said David A Martin should convey the said lands to your oratrix.

Now your oratrix is advised that the said David A Martin holds the legal title to said interest in said lands in trust for her benefit, and that a court of equity will compel him to convey the same to your oratrix. But should your oratrix be mistaken in this or should it turn out that this can not be done, then she is advised that the execution of the deed by her to the said David A Martin, when she was an infant is null & void, and that she is entitled to dower in the said undivided ^{two} thirds of said ~~tracts~~ of land.

The object therefore of this bill is to compel the said David A Martin to convey, by proper deed, to your oratrix, the said interest conveyed to him in said lands, but if this can not be done, then to have said lands partitioned among those entitled thereto, and dower assigned your oratrix in two thirds of said lands. To this end she makes the said David A Martin, & Arjann McCauley the parties defendants thereto and asks that they be required to answer this bill upon oath, and on a hearing that the relief prayed for be granted, and for all further and general relief. May process issue directed &c. And your oratrix will ever pray &c.

Richmond & Orr, for Plaintiff.

C 4.78 to Aug 18
 S 1.00
 15.00
 \$20.78

Mollie McBailey by ^(R & O)
 vs Bill in Chancery.

David A. Martin & als.

1887, July Bill filed

Shd Exd & D. Nisi

" Aug. D. Nisi confirmed

& cause set for hearing

" Aug. Decree final

Mollie McCauley by &c

Pltff

vs

3 In chcy

Arey, Ann, McCauley et als.

Defendants

Then parties to this suit having mutually settled the matters of difference between them as shown by a paper filed in the cause marked "A B" pursuant thereto it is adjudged ordered and decreed that the defendant Arey Ann McCauley pay to the Plaintiff as the widow of Martin W McCauley dead the sum of one hundred dollars, as and in lieu of ~~down~~ ^{her} ~~for~~ down in the lands in the bill and proceedings mentioned and also her interest in all or any personal estate owned by the said Martin W McCauley at the time of his death of which said sum thirty dollars has this day been paid in cash to the said Mollie McCauley, and she has accepted a note on Charles F. Flannery for seventy dollars in full satisfaction of the said ^{sum} of one hundred dollars above desired her. And in consideration whereof and the payment of said sum of one hundred ^{dollars} in the manner afore said it is further adjudged ordered and decreed that the said Plaintiff Mollie McCauley be and she is hereby forever barred from setting up or asserting ^{any} claim to any personal estate owned by the said Martin W McCauley ^{at the time of his death} or any claim to down

or any other interest in or to the lands
in the bill and proceedings mentioned
And the Plaintiff is to pay her own costs
in this suit and the parties are hence dis-
missed and the cause stricken from the
docket.

Mallie McCauley by 12

vs. 3 Darnen

By Ann McCauley et al

Entered page 44

C. D. No. 16 No. 3.

J. H. Hyatt, c.

Enter this decree
W. H. Hyatt

Aug 30th 1887

Mollie McCauley by &c Plff }
against David A Martin & al Defts } In Chy.

It is agreed between the parties to this cause that upon the payment to the plaintiff of One hundred dollars, by the defendant Aryann McCauley, the plaintiff hereby releases any and all claims against the Estate of her deceased husband, ^{both} ~~either~~ ^{in this County and in the bill mentioned,} upon the real & personal estate, in way of dower or otherwise, as his widow; and is willing, so far as she is concerned, for the defendant David A Martin to convey to defendant Aryann McCauley the interest in the land in the bill mentioned which was conveyed to him by Martin W McCauley deceased on the 10th day of Feb' 1887, free from any claim of the plaintiff. And, upon the payment of the \$100⁰⁰ aforesaid, the plaintiff is to dismiss her suit, the Court decreeing between the parties pursuant to this agreement.

Wm Woodward, next
friend of Mollie McCauley

David A ^{his} Martin
Aryann ^{her} McCauley.

Witness.
C. E. Flannery

Mollie McCauley lyrc
vs { Agreement
David A Martin et al.

"A13"

The Commonwealth of Virginia,

To the Sheriff of LEE COUNTY--Greeting:

WE COMMAND YOU to summon

David S. Martin
and Annan McCauley

to appear at the Clerk's office of the Circuit Court of Lee County, at the Court House
on the first Monday in *July* next, being Rule Day, to answer a
Bill in Chancery exhibited in our Court against *them*, by *Mollie*

McCauley an infant, who sues
by Wm. Woodward her next friend

And have then and there this Writ. Witness, J. A. G. HYATT, Clerk of our said
Court, at the Court House, this *21st* day of *June* 188*7* in
the 1*4* year of the Commonwealth.

J. A. G. Hyatt Clerk.

A Copy Teste:

(R + C)

Mollie McLauley & Co

vs { Shaw in Chy
3

David A. Martin
et al

So July Rules 1887

Executed by deliver-
ing a true official
copy of the return
to David A. Martin
& one to ~~David~~ McCall
by June month 27
1887

Stt Caring D. S.

for R. B. Glenney

S, L, C